

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

**James Wilson Chesher and Cheryl Ann
Chesher,**

C/A No. 3:15-cv-2123

Plaintiffs,

Vs.

3M Company, et al.,

Defendants.

**DEFENDANT GENERAL ELECTRIC COMPANY'S RESPONSES TO LOCAL
RULE 26.03 INTERROGATORIES**

General Electric Company ("General Electric") responds to Local Rule 26.03 court ordered interrogatories. General Electric reserves the right to supplement these responses as discovery continues.

(1) A short statement of the facts of the case:

RESPONSE: The complaint was filed on April 15, 2015 by James Wilson Chesher and Cheryl Ann Chesher against General Electric and other defendants. The complaint alleges that Mr. Chesher was diagnosed with mesothelioma stemming from his alleged exposure to asbestos-containing products during his work as a machinist mate and as a commissioned officer while serving in the United States Navy aboard various ships and in various shipyards, including Mare Island, California, Long Beach, California, Philadelphia, Pennsylvania and Charleston, South Carolina. The case was removed to the United States District Court for the District of South Carolina on May 22, 2015.

(2) The names of fact witnesses likely to be called by the party and a brief summary of their expected testimony:

RESPONSE: Discovery is just beginning. This defendant expects to call as fact witnesses the plaintiff, coworkers identified by plaintiffs' counsel, treating physicians or other health care professionals who examined and/or treated Mr. Chesher, custodian of any medical records pertaining to Mr. Chesher, and corporate representatives of General Electric. In addition, General Electric may call other fact witnesses as appropriate, based upon information learned through the course of discovery.

(3) The names and subject matter of expert witnesses (if no witnesses have been identified, the subject matter and field of expertise should be given as to experts likely to be offered):

RESPONSE: General Electric refers to its Rule 26 Initial Disclosures.

(4) A summary of the claims or defenses with statutory and/or case citations supporting the same:

RESPONSE: Plaintiffs' Rule 26.03 Interrogatories list the claims Plaintiffs assert in this case. General Electric's defenses are listed more fully in its Answer. The primary defenses that appear to be at issue in this lawsuit at this time are listed below. To the extent that further discovery reveals additional defenses that may be at issue, General Electric hereby expressly reserves its right to amend this Response at a later time.

Government Contractor

Faddish v. General Elec. Co., 2010 WL 4146108 (E.D. Pa. Oct. 20, 2010).

Lack of Sufficient Exposure Evidence to a General Electric Asbestos-Containing Product

Henderson v. Allied-Signal, Inc., 373 S.C. 179, 644 S.E.2d 724 (2007); *Lohrmann v. Pittsburgh Corning Corp.*, 782 F.2d 1156, 1162 (4th Cir. 1986).

General Electric Did Not Manufacture, Sell, Supply, or Place Into the Stream of Commerce the Asbestos-Containing Materials Allegedly at Issue.

Baughman v. General Motors Corp., 780 F.2d 1131, 1133 (4th Cir. 1986); *see also, e.g., O'Neil v. Crane Co.*, 53 Cal. 4th 335, 342-43, 266 P.3d 987, 991 (2012); *Lindstrom v. A-C Product Liability Trust*, 424 F.3d 488, 492 (6th Cir. 2005) (applying maritime law).

Product Misuse

Anderson v. Green Bull, Inc., 322 S.C. 268, 270-71, 471 S.E.2d 708, 710 (Ct. App. 1996).

Comparative Negligence

Berberich v. Jack, 392 S.C. 278, 286, 709 S.E.2d 607, 611 (2011).

Assumption of Risk

Cole v. Boy Scouts of America, 397 S.C. 247, 251-52, 725 S.E.2d 476, 478 (2011).

Intervening and Superseding Cause

Roddey v. Wal-Mart Stores East, LP, 400 S.C. 59, 86-87, 732 S.E.2d 635, 649 - 650 (Ct. App. 2012); *see also Rife v. Hitachi Const. Mach. Co., Ltd.*, 363 S.C. 209, 217, 609 S.E.2d 565, 569 (Ct. App. 2005).

No Post-Sale Duty to Warn

Bragg v. Hi-Ranger, 319 S.C. 531, 548, 462 S.E.2d 321, 331 (Ct. App. 1995); *Branham v. Ford*, 710 S.E.2d 5, 17 (S.C. 2010).

Learned Intermediary and/or Sophisticated User

Lawing v. Trinity Mfg., Inc., 406 S.C. 13, 23, 749 S.E.2d 126, 131 (Ct. App. 2013); *see also* *Bragg, supra*; *O'Neal v. Celanese Corp.*, 10 F.3d 249 (4th Cir. 1993).

South Carolina Door Closing Statute

S.C. Code § 15-5-150; *Henderson, supra*.

(5) Absent special instructions from the assigned judge, the parties shall propose dates for the following deadlines listed in Local Civil Rule 16.02:

RESPONSE: The parties have submitted a proposed Consent Amended Scheduling Order which was recently approved by the Court.

(6) The parties shall inform the Court whether there are any special circumstances which would affect the time frames applied in preparing the scheduling order.

RESPONSE: None are known at this time. This defendant has attempted to account for known circumstances in proposing dates in the Consent Amended Scheduling Order recently approved by the Court.

(7) The parties shall provide any additional information requested in the Pre-Scheduling Order (Local Civil Rule 16.02) or otherwise requested by the assigned judge:

RESPONSE: None.

Dated: September 14, 2015

Respectfully submitted:
EVERT WEATHERSBY HOUFF

/s/ Jennifer M. Techman
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CERTIFICATE OF SERVICE

I certify that the foregoing General Electric Company's Responses to LR 26.03 Interrogatories was electronically filed in this case and was e-mailed to all counsel of record by filing with the ECF System on September 14, 2015.

/s/ Jennifer M. Techman
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